

§ 1489.5

[30 FR 12067, Sept. 22, 1965, as amended by Amdt. 1, 31 FR 11013, Aug. 19, 1966]

§ 1489.5 Failure to perform.

The exporter agrees to export tobacco or cigarettes as required by this part within the time specified herein, or to pay liquidated damages as herein provided. Failure to furnish proof of exportation within 30 calendar days after 90 calendar days after the date of the invoice or any extended period approved by CCC shall be prima facie evidence of failure to export. Failure of the exporter to export tobacco or cigarettes within the time required under this part will result in damage to CCC's export and price support programs. Since it will be difficult, if not impossible, to prove the exact amount of such damage, the exporter shall pay to CCC liquidated damages as follows: (a) Where the export requirements for tobacco are not met, for each day of delay in exportation, one-sixth of one percent of a base amount determined by multiplying the number of pounds by which the export requirements for tobacco are not met by the average invoice price per pound of the tobacco acquired from the association, or (b) where the export requirements for cigarettes are not met, for each day of delay in exportation, one-sixth of one percent of a base amount equal to the amount by which the value of the cigarettes exported, as determined under § 1489.4, fails to equal the invoice value of the tobacco bought under the credit arrangement: *Provided*, That in the case of either paragraph (a) or (b) of this section the total amount of liquidated damages assessed shall not exceed ten percent of the base amount: *And provided, further*, That no liquidated damages shall be assessed if CCC determines that failure to export or delay in exportation was due solely to causes without the fault or negligence of the exporter. In acquiring tobacco under a credit arrangement, the exporter agrees that these rates are a reasonable estimate of probable actual damages that would be incurred by

exported pursuant to the terms of these regulations, to prohibited countries and areas. The attention of the exporter is invited to the "Notice to Exporters" which accompanies these regulations.

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CCC by reason of failure to export in accordance with this part.

APPENDIX TO PART 1489—NOTICE TO EXPORTERS

The Department of Commerce, Bureau of International Commerce, pursuant to regulations under the Export Control Act of 1949, prohibits the exportation or re-exportation by anyone of any commodities under this program to Cuba, the Soviet Bloc or Communist-controlled areas of the Far East, including Communist China, North Korea, and the Communist-controlled area of Vietnam, except under validated license issued by the U.S. Department of Commerce, Bureau of International Commerce.

For all exportations, one of the destination control statements specified in Commerce Department Regulations (Comprehensive Export Schedule §379.10(c)) is required to be placed on all copies of the shipper's export declaration, all copies of the bill of lading, and all copies of the commercial invoices. For additional information as to which destination control statement to use, the exporter should communicate with the Bureau of International Commerce or one of the field offices of the Department of Commerce.

Exporters should consult the applicable Commerce Department regulations for more detailed information, if desired, and for any changes that may be made therein.

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PART 1493—CCC EXPORT CREDIT GUARANTEE PROGRAMS

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